

2016 -- H 7143

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO COMMERCIAL LAW--GENERAL REGULATORY PROVISIONS -- THE
RHODE ISLAND AUTOMOBILE REPOSSESSION ACT

Introduced By: Representatives Diaz, Slater, Tobon, Barros, and Maldonado

Date Introduced: January 13, 2016

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 6-51-3 of the General Laws in Chapter 6-51 entitled "The Rhode
2 Island Automobile Repossession Act" is hereby amended to read as follows:

3 **6-51-3. Default, notice, right to cure, reinstatement.** -- (a) The default provisions of a
4 consumer automobile lease or automobile loan agreement are enforceable only to the extent that:

5 (1) The consumer does not make one or more payments required by the lease or loan
6 agreement; or

7 (2) The lessor or secured party establishes that the prospect of payment, performance, or
8 realization of the lessor's or secured party's interest in the automobile is significantly impaired.

9 (b) After a default under an automobile lease or loan agreement by the consumer, the
10 lessor or secured party may not accelerate, take judicial action to collect, or repossess the
11 automobile until the lessor or secured party gives the consumer the notice required by this section
12 and the consumer does not cure the default in the time allowed under this section. A lessor or
13 secured party may initiate a procedure to cure by sending to the consumer, at any time after the
14 consumer has been in default for ten (10) days, a notice of the right to cure the default. Said
15 notice shall be delivered via certified mail, return receipt requested, or via first-class mail, at the
16 consumer's address last known to the lessor or secured party. The time when notice is given shall
17 be deemed to be upon actual delivery of the notice to the consumer or three (3) business days
18 following the mailing of the notice to the consumer at the consumer's address last known to the

1 lessor or secured party.

2 (c) The notice shall be in writing and shall conspicuously state the rights of the consumer
3 upon default in substantially the following form:

4 The heading shall read: "Rights of Defaulting consumer under Rhode Island General
5 Laws." The body of the notice shall read: "You may cure your default in (describe automobile
6 lease or loan agreement in a manner enabling the consumer to identify it) by paying to (name and
7 address of lessor or secured party) (amount due) before (date that is at least twenty-one (21) days
8 after notice is delivered). If you pay this amount within the time allowed you are no longer in
9 default and may continue with the automobile (lease or loan) agreement as though no default has
10 occurred.

11 If you do not cure your default by the date stated above, the lessor or secured party may
12 sue you to obtain a judgment for the amount of the debt and may take possession of the
13 automobile.

14 If the lessor or secured party takes possession of the automobile, you may get it back by
15 paying the full amount of your debt plus any reasonable expenses incurred by the lessor or
16 secured party if you make the required payment within twenty (20) days after the lessor or
17 secured party takes possession.

18 If (the secured party) sells the vehicle repossessed from the consumer for an amount
19 exceeding the amount outstanding on the automobile (loan) agreement including reasonable
20 expenses related to judicial action and or repossession, the excess funds shall be returned
21 promptly to the defaulting consumer.

22 You have the right to cure a default only once in any twelve-month (12) period during
23 the period of the automobile (lease or loan) agreement. If you default again within the next twelve
24 (12) months in making your payments, we may exercise our rights without sending you another
25 right to cure notice. If you have questions, telephone (name of lessor or secured party) at (phone
26 number)."

27 (d) Within the period for cure stated in the notice under this section, the consumer may
28 cure the default by tendering the amount of all unpaid sums due at the time of tender, including
29 any unpaid delinquency or default charges, but without additional security deposit or prepayment
30 of period payments not yet due. Cure restores the rights of the lessor or secured party and
31 consumer under the automobile loan or lease agreement as if the default had not occurred.

32 (e) A consumer has the right to cure only once in any twelve-month (12) period during
33 the period of the automobile lease or loan agreement.

34 [\(f\) Any violation of this section shall be punishable by a penalty of up to five hundred](#)

1 dollars (\$500). Such penalty may be imposed upon a lessor or secured party after the filing of a
2 complaint by the lessee directly with the motor vehicle dealers' license and hearing board, and
3 after a hearing thereon and a finding of a violation pursuant to the provisions of §§31-5-2.1 and
4 31-5-14, and any other applicable provisions of chapter 31 of title 5 entitled "Dealers',
5 Manufacturers', and Rental Licenses."

6 (g) Upon a finding of any violation of this section pursuant to subsection (f) of this
7 section, the consumer shall have twenty (20) days to pay any amount due as stated in the original
8 notice sent to the consumer pursuant to the provisions of subsection (c) of this section.

9 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO COMMERCIAL LAW--GENERAL REGULATORY PROVISIONS -- THE
RHODE ISLAND AUTOMOBILE REPOSSESSION ACT

1 This act would provide that any lessor or secured party of an automobile that fails to
2 provide proper notice of: (1) default; and (2) opportunity to cure said default to a lessee or
3 purchaser of an automobile, would be assessed a penalty of up to five hundred dollars (\$500).
4 Upon a finding of violation by the dealer's license hearing board, the lessee/purchaser would be
5 provided an additional twenty (20) days to cure the default.

6 This act would take effect upon passage.

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